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MINISTRY OF THE ENVIRONMENT

ADMINISTRATIVE PROCEDURES FOR DEALING WITH
CHANGES TO PRIVATE WASTE DISPOSAL SITES

February, 1984



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by

**The Ontario Ministry
of The Environment**

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Ministry of the Environment
Department of the Environment

February 13, 1984.

MEMORANDUM

MINISTRY OF THE ENVIRONMENT

TO:

All Regional Offices

FROM:

D.P. Officer

ADMINISTRATIVE PROCEDURES FOR DEALING WITH
CHANGES TO PRIVATE WASTE DISPOSAL SITES

RE:

ADMINISTRATIVE PROCEDURES FOR DEALING WITH
CHANGES TO PRIVATE WASTE DISPOSAL SITES

This report was prepared at the request of the Deputy
Minister and upon consultation with the various
Regions and Branches of the Ministry. The present
version replaces the one dated June, 1983.

The report outlines the procedures which will apply to
all sites in dealing with the expansion, modification or
closure of private waste disposal sites. Many of the
procedures will also apply to municipally owned waste
disposal sites. Reference should also be made to the
policy on Transfer of Sites to the Environment
Scientific Data and Source 11-11.

Please ensure that your staff have copies of the report
and are aware that the procedures come into effect
immediately.

If you require further copies of the document please
contact my office (913-7662) or Dave Russell
(913-9113).

February, 1984

D.P. Officer

cc:

Mr. A. Smith
Mr. J. Hargrave
Mr. C. E. Hargrave
Mr. A. Hargrave



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February 1981



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Bureau 100
Toronto (Ontario)
M4V 1P5

February 10, 1984.

MEMORANDUM

TO: All Division Directors

FROM: D.P. Caplice,
Assistant Deputy Minister,
Regional Operations Division.

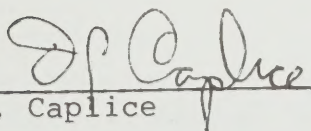
RE: ADMINISTRATIVE PROCEDURES FOR DEALING WITH
CHANGES TO PRIVATE WASTE DISPOSAL SITES

This report was prepared at the request of the Deputy Minister and upon consultation with staff from various Regions and Branches of the Ministry. The present version replaces one dated June, 1983.

The Report outlines the procedures which MOE staff are to take in dealing with the expansion, establishment or problems at private waste disposal sites. Many of the procedures will also apply to municipally owned waste disposal sites. Reference should also be made to the policy on Release of Ministry of the Environment Scientific Data and Reports (16-01).

Please ensure that your staff have copies of the report and are aware that the procedures come into effect immediately.

If you require further copies of the document please contact Erv McIntyre (965-7062) or Dave Guscott (965-5115).


D.P. Caplice

DG/mcc

cc: B.A. Smith
D.E. Redgrave
C.E. McIntyre
R.M. Gotts

Administrative Procedures for Dealing with Changes To Private Waste Disposal Sites

INTRODUCTION

This report was prepared by the Environmental Approvals and Project Engineering Branch to provide procedures to guide Ministry of the Environment staff in handling proposals for the establishment or expansion of private waste disposal sites operated by the waste management industry.

A. PURPOSE

The purpose of these procedures is to provide guidelines for the Ministry of the Environment to deal with proposals for the establishment or expansion of private waste disposal sites*. Some of these procedures may be applicable to the establishment or expansion of municipally-owned waste disposal sites.

The objectives are to:

- establish a more anticipatory approach for Ministry staff;
- make information on site proposals and waste management more available to the public;
- increase public acceptance of the decision-making process.

* Private Waste Disposal Sites refers to sites owned and/or operated by the private sector waste management industry.

B. PROBLEM

In the past, the Ministry of the Environment has been strongly criticized during the process leading up to and including the hearings for the establishment or expansion of private* waste disposal sites. Among other things, the Ministry has been accused by the public of being secretive with its information, of inadequate monitoring and information on sites, and of siding with the proponent and against residents. The waste management industry has in turn accused the Ministry of not providing leadership, of not setting standards and parameters, and of administering a complex, confusing approval process. In order to improve the Ministry's handling of waste site proposals in the future, the procedures described in Section D have been developed to guide Ministry staff involved in the process.

A detailed evaluation of the problem is contained in Appendix 1.

* Most municipal waste disposal sites are subject to the Environmental Assessment Act.

C. APPLICATION OF PROPOSED PROCEDURES

The procedures, described in detail in Section D of this report, will:

1. **apply** to expansions to existing waste disposal sites, the creation of new sites, and to sites with significant problems where the site is owned and/or operated by the private waste management industry. They may apply selectively to municipal sites and to other situations;
2. require dissemination of all Ministry **information** on sites and surrounding effects, including copies of inspection reports and sample results, to residents and to the municipality, in a manner consistent with the guideline on EPA (s.130) (see Appendix 2);
3. require **monitoring** reports for all active sites, on a regular basis. The requirement will be phased-in starting with the larger sites. MOE will do periodic random sampling to check accuracy of operator sampling and will rigidly enforce all C. of A. conditions;
4. require **special MOE monitoring** at the first indication that a site may be expanded;
5. encourage the proponent to **advise municipality** and public at earliest opportunity of decision to consider expansion or creation of new site. Copies of all relevant MOE correspondence will go to the municipality and to the proponent;
6. require the designation of an MOE regional staff member as a **single contact person** responsible for the co-ordination of all MOE activities, other than

Certificate of Approval review, and for contact with municipality, citizen groups, proponent, and the media. The designation will be made by the Regional Director at the first indication of site establishment, expansion, or of a problem at an existing site;

7. encourage residents to establish, early on, **Citizen Information Groups** with full co-operation from the Ministry of the Environment in order to provide a point of contact for MOE and the proponent;
8. require MOE to **participate in selected hearings** at the recommendation of the Assistant Deputy Minister, in order to:
 - a) present the Ministry's technical position;
 - b) ensure that all relevant information is available to the Board;
9. require concise MOE **guidelines** for advising proponents and citizen groups during the approval process.

D. DETAILED PROCEDURES

Outlined below are procedural categories with specific steps to be taken in the situations described.

1. Procedures to be Implemented Immediately:

- (a) **Monitoring** reports, will be required at least once a year for all active private waste disposal sites;
 - ° monitoring will be done by qualified staff on behalf of the owner/operator or by a consultant hired by the operator;
 - ° the requirement for regular monitoring will be included as a condition on Certificates of Approval when issued;
 - ° report consisting of raw data plus interpretation will be sent to Ministry and copied to municipality. Moreover, if private wells are monitored, the well owner will also be copied;
 - ° report addressing conditions on site and in surrounding area will indicate compliance with each condition on Certificate of Approval;
 - ° spot checks will be done by MOE Regional staff to verify results and to check unusual or unacceptable results. Copies of inspection reports will go to municipality, to the operator, and to the well owners;
 - ° requirement 1(a) will be implemented on a phased basis starting first with major sites that have hydrogeological studies and gradually expanding to cover smaller sites;

- (b) **Concise Guidelines will be prepared by Waste Management Branch** to advise proponents and citizens' groups of their rights and responsibilities at an Environmental Assessment Board hearing and of information required during the Certificate of Approval process;
 - ° the guidelines will include recommendations on public involvement at hearings;
 - ° the guidelines will clearly describe all parts of the approval process for waste disposal sites up to and including issuance of a Certificate of Approval;
- (c) **Guidelines will be prepared by Legal Services Branch** to advise MOE staff on interpretation of EPA s.130 and the Consolidated Hearings Act with respect to release of information to municipality and public (see Appendix 2).

2. Procedures for Implementation at the First Indication of Site Establishment or Expansion

- (a) Send proponent copy of **Approval Process Guidelines** (see 1 (b) above);
- (b) The proponent will be encouraged to **advise municipality** and residents of plans as soon as possible and will be requested to release monitoring and inspection reports to municipality and public;
- (c) MOE staff member will be designated as **single contact person** responsible for the co-ordination of:

- i) all MOE studies, inspections, orders, relating to the site;
 - ii) all MOE contact with the proponent, municipality, citizens' groups, and media;
- (d) For expansion of an existing site, **special monitoring** of site conditions, operations, and compliance with conditions on Certificate of Approval will be undertaken by MOE staff. Reports on this special monitoring will be sent to the owner/operator, to the municipality and, upon request, to residents;
- ° the designated contact person will be selected from Regional staff on the basis of:
 - i) ability to operate effectively under prolonged pressure in a highly visible and emotional milieu;
 - ii) ability to communicate with citizens' groups, media, and other non-technical audiences;
 - iii) technical competence.

3. Procedures for Implementation When Municipality and Residents have Learned or have been Advised of Plans for Site Expansion or Establishment

- (a) The designated MOE contact person will meet with the municipality and residents to encourage the formation of a **Citizen Information Group**, to provide a single body through which MOE and the proponent may contact the public. MOE will provide no direct financial help to such groups;

- (b) **Copies** of all past monitoring and inspection reports and a copy of the Guidelines discussed in 1(b) will be sent to the Citizen Information Group;
- (c) **Copies** of relevant correspondence and current reports will be sent to the municipality and the Citizen Information Group;
- (d) The designated MOE contact person will meet with the Citizen Information Group to **explain** procedures, reports, and correspondence;
- (e) The designated MOE contact person will encourage **discussions** between the Citizen Information Group and the proponent;
- (f) The designated MOE contact person will monitor the situation and will alert the Assistant Deputy Minister through the Regional Director if **major controversy** appears to be developing.

4. Procedures for Implementation When an Environmental Protection or a Consolidated Hearings Act Hearing is Held

- (a) MOE will be a **party to the Hearing** and will be represented by legal counsel;
- (b) MOE will present its **technical position** on the proposal. By the end of the Hearing, MOE should be able to advise the Board of conditions that MOE staff will require in the Certificate of Approval;
- (c) MOE will help ensure that all **relevant information** is available to the Board and will scrutinize technical content of all evidence.

7. Procedures for Implementation When a
Significant Problem Occurs at an Existing Site

- (a) MOE staff member will be designated as **contact person** for the site;
- (b) If a problem is discovered, all **monitoring reports** consisting of data and preliminary interpretation will be distributed immediately to area residents, the municipality, and the Medical Officer of Health by MOE contact person;
- (c) If the validity of any monitoring test results is in doubt, **resampling** will be done by MOE immediately. The results of the analysis will be needed in less than one month;
- (d) **Special monitoring** will be implemented as required, to provide additional information (see 2(d));
- (e) The designated MOE contact person will meet with the municipality and residents, and will encourage the formation of a **Citizen Information Group** as discussed in Section 3(a). If municipality fails to convene meeting then MOE contact person will arrange it;
- (f) **Copies** of all past monitoring and inspection reports will be sent to the Citizen Information Group and to the municipality;
- (g) **Copies** of relevant correspondence and current reports will be sent to the municipality and the Citizen Information Group;
- (h) The designated contact person will encourage **discussions** between the Citizen Information Group and the site owner/operator;

- (i) The designated MOE contact person will monitor the entire situation and alert the Assistant Deputy Minister through the Regional Director if a **major controversy** appears to be developing;
- (j) The **resolution of the problem** will be done in accordance with normal Ministry practice, through the use of Director's Orders or Control Orders.

APPENDIX 1

Evaluation of past experiences has shown that the problems the Ministry has had in dealing with changes at private waste disposal sites can be described in the following parts.

1. Occurrence of Problem:

- ° an average of 2 to 5 sites per year have the potential to become controversial during the approval process;
- ° mostly during a proposed change to an existing site, i.e., expansion or alteration in waste received, processing, or when significant problems are found in site conditions;
- ° at sites which previously had poor operating practices;
- ° some during the establishment of new sites;
- ° mostly from larger sites.

2. Issues:

- ° most of the issues which grew and became controversial related to the way in which the proposed change would affect or seemed to affect the individual homeowner, generally of a health or socio-economic nature;
- ° the questions of need, alternate locations, and alternative technologies are often raised;
- ° some of the major issues which have become problems have not been of a technical nature

although the public perception has been that technical problems existed. In some cases, sites considered to be technically acceptable by MOE have been turned down because of non-technical issues such as the use of good agricultural land for landfilling or the need for landfilling if source separation and energy recovery are to be practised.

3. Data and Information:

- ° many problems resulted from inadequate and insufficient data on ground and surface water conditions, site operations, and especially historical information on existing disposal sites where expansion is proposed;
- ° varying opinions, advice, and knowledge of the site among MOE staff have sometimes created situations resulting in confusion and reduced credibility;
- ° many problems have been created by rumours spread among local residents and exacerbated by a lack of accurate and timely information from MOE;
- ° many problems relate to a public perception that MOE is on the side of the proponent and against the residents, or that MOE is hiding information from the residents.

4. Stance at Hearings:

- ° since 1979, the Ministry has been "silent" at most hearings generally taking no position on

the proposal. This has been viewed as inconsistent with our environmental protection role;

- ° when a poor design is being proposed, the neutral stance gives the appearance of MOE concurrence.

5. Guidelines:

- ° the lack of guidelines and direction on the information that is required from a proponent for the entire process has resulted in mistakes by proponents, which have caused refusals at the Board. Also, there has been a lack of guidance for the public to explain the processes and the hearings procedures. There is, as well, little in the way of Ministry guidelines to indicate to the Board the standards that the Ministry considers acceptable.

APPENDIX 2

GUIDELINES ON RELEASE OF INFORMATION to be used with ADMINISTRATIVE PROCEDURES FOR DEALING WITH CHANGES TO WASTE DISPOSAL SITES

INTRODUCTION

These guidelines address release of information as contemplated by the new administrative procedures, but limited by s.130 of the Environmental Protection Act and other considerations (see Appendix). While a strict interpretation of s.130 may be either impossible to produce or of very narrow scope, the spirit of the section should be respected by all Ministry staff.

S.130 requires confidentiality in respect of certain material found by the exercise of statutory powers; s.18 of the Environmental Protection Act requires disclosure of approvals and orders. All other information which staff may obtain falls somewhere between these two extremes and the Ministry can choose to divulge it or not as it sees fit. It is only in this middle area that the Ministry can formulate and follow a disclosure policy. Policy can only operate where there are no legal requirements of either secrecy or disclosure.

These guidelines should be utilized with respect to release of information to the public in accordance with the new administrative procedures at the first indication that a waste disposal site may be established or expanded. They are concerned mainly with establishment or expansion which will be subject to a Part V hearing or will require an environmental assessment.

GUIDELINES

1. Any information volunteered to Ministry staff may be released to the public.
2.
 - (1) Approvals and orders must be made available to the public on request (E.P.A. s.18).
 - (2) This requirement applies only to an approval or order after it is issued.
 - (3) For an approval, this includes enough of the application and accompanying material to make it clear what was approved, but proprietary information, economic data and other material, the disclosure of which may have an adverse effect on the proprietor, may be withheld.
3. If a proponent attempts to discuss with Ministry staff the possibility of establishing or expanding a waste disposal site, either before or after submission of an application:
 - (a) he should be advised of item 1;
 - (b) he should be advised that it is Ministry policy to disclose any such information where the proposal, if pursued, will involve a Ministry public information process (see item 3(d)) as part of the decision-making process;
 - (c) where the proposal or application, if pursued, will not involve a Ministry public information process (see item 3(d)), the proposal or application must be kept secret unless the proponent consents to its release;
 - (d) a Ministry public information process is part of the decision-making process where:
 1. the application would lead to a mandatory hearing;

2. the application would lead to the preparation and submission of an environmental assessment;
 3. the decision-maker has a clear, consistent policy (for a class of applications of providing information and seeking public input about it, in order to decide either the merits of the application or the desirability of a discretionary hearing; or
 4. the decision-maker has decided to require a discretionary hearing (Note: This implies that something which starts out within item 3(c) may shift into item 3(b)).
- (e) where a Ministry public information process will be involved, the proponent should be strongly advised to develop and carry out his own public information process;
- (f) Ministry of the Environment may be willing to keep discussions confidential for a limited time pending implementation of item 3(e).
4. (1) If we request information of any kind (including forcing the submission of information by an order or conditions of approval or by requirements in the Act or a regulation) or we carry out an investigation and, in any such way, discover material indicative of the possibility of establishing or expanding a waste disposal site, the information discovered must be kept confidential and the proponent should be advised that we will keep it confidential pending future developments.
- (2) This confidentiality requirement does not apply if the proponent consents to the release of such information.

- (3) this confidentiality requirement does not apply if an application is submitted and we request additional information or clarification. Such information should be treated as part of the application.
 - (4) The proponent should be advised of Ministry policy as described in item 3.
5. (1) No material, except approvals and orders (see item 2), about an existing site should be released without the proprietor's consent, unless it is information in respect of emissions of contaminants to the natural environment, e.g. monitoring reports might demonstrate emissions or the absence of emissions; waste loadings at the site might relate to eventual emissions of leachate; the daily volume of business, however, or the number of staff on site, would be difficult to relate to emissions.
- (2) This confidentiality requirement ceases to apply when an application is made (or assessment submitted) which will bring a Ministry public information process into play (see item 3(d)) and enable public scrutiny of most matters related to site history. Even so, Ministry files should not simply be opened to the public; some discretion should be exercised. Material clearly not relevant to the decision to be made should not be released. Proprietary information, economic data and other material, the disclosure of which might have an adverse effect on the proprietor may be withheld, if it is not directly related to the decision to be made.

LEGAL SERVICES BRANCH

ENVIRONMENTAL PROTECTION ACT, SECTION 130(1):

Except as to information in respect of the deposit, addition, emission or discharge of a contaminant into the natural environment, every provincial officer shall preserve secrecy in respect of all matters that come to his knowledge in the course of any survey, examination, test or inquiry under this Act or the regulations and shall not communicate any such matters to any person except,

- (a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations;
- (b) to his counsel; or
- (c) with the consent of the person to whom the information relates.

CIVIL SERVICE OATH OF OFFICE AND SECRECY:

"I,, do swear that I will faithfully discharge my duties as a civil servant and will observe and comply with the laws of Canada and Ontario, and, except as I may be legally required, I will not disclose or give to any person any information or document that comes to my knowledge or possession by reason of my being a civil servant.

So help me God."

McRUER REPORT - STATEMENT OF PRINCIPLE:

"It is essential that the use of information and evidence obtained through the exercise of statutory powers of inquiry should be confined to the purpose for which it was obtained and that purpose only."



